

fragments thereof, and expression cells comprising the nucleic acid for further prosecution.

However, Applicants submit that the Patent Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP 803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

No serious burden is created for the Examiner by running a simultaneous computerized search of the nucleic acids of Group I and the substantially purified protein of Group II. The single search may be run in conjunction with databases such as those available at <http://www.ncbi.nlm.nih>. A single search for a particular nucleotide sequence and its translation product, for example, would automatically yield results from Groups I and II without any undue burden on the Examiner.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. In order to facilitate prosecution, however, Applicants have provisionally elected, with traverse, the subject matter of Group I.

Should the Examiner have any questions regarding this application, the Examiner is invited to telephone the undersigned at the number provided.

Applicants do not believe that any fees or extensions of time under 37 C.F.R. 1.136 are required in conjunction with this submission other than those set forth in the accompanying letter. However, in the event that extensions of time are necessary to prevent the abandonment of this patent application then such extensions of time are hereby petitioned. The U.S. Patent and Trademark Office is hereby authorized to charge any fees that may be required in conjunction with this submission to Deposit Account Number 13-4125, referencing matter number 38-21(15749)B.

Respectfully submitted,

Lawrence M. Lavin, Jr.

Lawrence M. Lavin, Jr. (Reg. No. 30,768)
by David R. Marsh (Reg. No. 41,408)
June E. Cohan (Reg. No. 43,741)

Date: May 31, 02

MONSANTO COMPANY
800 N. Lindbergh Blvd.
Mailzone N2NB
St. Louis, MO 63167
(314) 694-3602 telephone
(314) 694-1671 facsimile

by
David R. Marsh